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Elliott N. Kramsky Req. No. 27,812  
Name of applicant, assignee, or Registered Rep.  
Elliott N. Kramsky March 1, 2007  
Signature Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Application of: : Examiner:  
BOBI CHEYENNE GRIMES : Alissa L. Hoey  
Serial No. 10/647,148 :  
Filed: August 25, 2003 :  
For: GARMENT WITH CONVERTIBLE : Art Unit 3765  
ORNAMENTATION :  
:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 C.F.R. 1.181

Dear Sir:

Applicant hereby petitions and requests that the above-identified (now abandoned) patent application be restored to pending status and that the claims directed to the species of the invention illustrated in Figures 2A, 2B and 2C (brass rivets ornaments) be examined and an office action issued on the grounds that a timely response to the office action mailed November 9, 2004 electing such species without traverse was timely filed. Copies of (1) the office action mailed November 9, 2004, (2) Applicant's response (Amendment/Election of Species) mailed

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## BACKGROUND

A Notice of Abandonment mailed February 8, 2007 states "This application is abandoned in view of...A response to an election/restriction requirement was received on 02/09/05. The response time for the election/restriction requirement expired on 12/09/04. No late fee was received and therefore the application is abandoned."

The cover page of the office action at issue indicates a mailing date of "11/09/2004". The page immediately following the cover page states, at the top, "Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION." A certificate of mailing at the top of the Amendment/Election of Species states that the document was deposited addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 7, 2005 and the post card receipt indicates that the Amendment/Election of Species was received by the United States Patent and Trademark Office on February 9, 2005. Receipt of the

Amendment/election of Species on February 9, 2005 is further acknowledged by the Patent Examiner in the Notice of Abandonment.

## ARGUMENT

Applicant was entitled to file a response to the office action within and up to three months from mailing date of November 9, 2004 (11/09/2004) of the office action. Such period for response extended to February 9, 2005 (02/09/05). Since receipt by such date is acknowledged by the U.S.P.T.O., the holding of abandonment is erroneous and has no basis in fact.

## CONCLUSION

For the foregoing reasons, Applicant is clearly entitled to relief and therefore prays that the current petition be granted relieving it from a holding of abandonment.

Respectfully submitted,

*Elliott N. Kramsky*  
Elliott N. Kramsky  
Registration 27,812  
Attorney for Applicant

Enclosures:

(1) Copy of office action mailed November 9, 2004;  
(2) Copy of Amendment/Election of Species mailed February 7, 2005;  
(3) Copy of post card receipt; and  
(4) Copy of Notice of Abandonment mailed February 8, 2007.



O P E IAP19  
MAR 06 2004  
UNITED STATES PATENT AND TRADEMARK OFFICE

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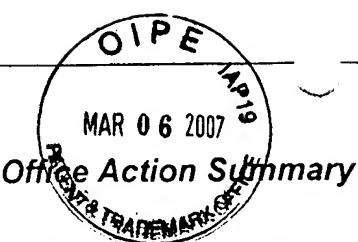
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United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,148	08/25/2003	Bob Cheyenne Grimes	437-101	1307
7590	11/09/2004		EXAMINER	
Elliott N. Kramsky, Esq. Suite 400 5850 Canoga Avenue Woodland Hills, CA 91367			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED 219105



	Application No.	Applicant(s)
	10/647,148	GRIMES, BOBI CHEYENNE
Examiner	Art Unit	
Alissa L. Hoey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 August 2003.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

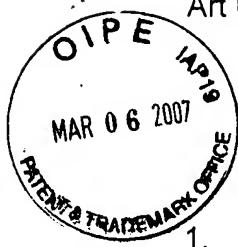
a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____



## DETAILED ACTION

### ***Election/Restrictions***

1. Claims 1-13 are generic to a plurality of disclosed patentably distinct species comprising figures 2A, 2B and 2C (brass rivet ornaments), figures 3A, 3B, 4A and 4B (domed button ornaments), figures 6A, 7A and 8A (circular ornament with bar for securing a decorative device), figures 6B and 7B (star ornament with bar for securing a decorative device) and figure 8B (star ornament and elongated decoration fixed to a plurality of ornaments). Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

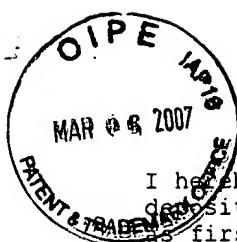
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

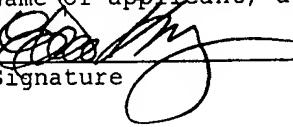
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Alissa L. Hoey*  
Alissa L. Hoey  
Patent Examiner  
Technology Center 3700



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450,  
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(Date of Deposit)

Elliott N. Kramsky Req. No. 27,812  
Name of applicant, assignee, or Registered Rep.

  
Signature

February 7, 2005  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Examiner:
BOBI CHEYENNE GRIMES	:	Alissa L. Hoey
Serial No. 10/647,148	:	
Filed: August 25, 2003	:	Art Unit 3765
For: GARMENT WITH CONVERTIBLE	:	
ORNAMENTATION	:	

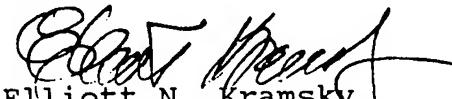
Commissioner for Patents  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

AMENDMENT/ELECTION OF SPECIES

Dear Sir:

In response to the office action mailed November 9, 2004, Applicant elects to prosecute the claims directed to the species of the invention illustrated in Figures 2A, 2B and 2C (brass rivet ornaments). Such election is made without traverse.

Respectfully submitted,

  
Elliott N. Kramsky  
Registration No. 27.812  
Attorney for Applicant

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In re Patent Application of: Bobi Cheyenne Grimes  
Serial No. 10/647,148  
Filed: August 25, 2003  
For: GARMENT WITH CONVERTIBLE  
ORNAMENTATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Kindly acknowledge receipt of the enclosed Amendment/Election  
of Species by date stamp and return mail.

Docket No. 437-101 Thank you.  
February 7, 2005





UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,148	08/25/2003	Bobi Cheyenne Grimes	437-101	1307

7590                    02/08/2007  
Elliott N. Kramsky, Esq.  
Suite 400  
5850 Canoga Avenue  
Woodland Hills, CA 91367

EXAMINER
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HOEY, ALISSA L

ART UNIT	PAPER NUMBER
3765	

MAIL DATE	DELIVERY MODE
02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.



Notice of Abandonment	Application No.	Applicant(s)
	10/647,148	GRIMES, BOBI CHEYENNE
	Examiner Alissa L. Hoey	Art Unit 3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.  
 (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.  
 (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
     (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).  
 (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).  
 (d)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).  
 (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).  
 (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
     The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.  
 (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).  
 (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.  
 (b)  No corrected drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

A response to an election/restriction requirement was received on 02/09/05. The response time for the election/restriction requirement expired on 12/09/04. No late fee was received and therefore the application is abandoned

ALISSA HOEY  
 PRIMARY EXAMINER  
 TECHNOLOGY CENTER 3700

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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